

**REMARKS**

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1 and 6-17 were pending. By this Amendment, Claims 1, 6, and 10-17 have been amended and new Claims 18-19 have been added. Support for the amendments can be found in the specification at, for example, page 19, lines 10-12, page 20, lines 9-11, and page 22, line 21 to page 23, line 6. No new matter has been added. Therefore, after entry of this Amendment, Claims 1 and 6-19 will be currently pending and under examination.

In the Office Action dated January 23, 2009, Claims 1, 6, 7, 10, 11, 14, and 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,394,897 to Togami ("Togami") in view of U.S. Patent No. 6,312,335 to Tosaki, et al., ("Tosaki") and U.S. Patent No. 6,746,331 to Saikawa et al. ("Saikawa") and Claims 8-9, 12-13, and 16-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Togami, Tosaki, and Saikawa in view of Cheng, U.S. Patent No. 5,667,220 (hereinafter, "Cheng"). Further, Claims 10-17 were rejected under 35 U.S.C. 101 for being directed to non-statutory subject matter. It is noted that Claims 1, 6, and 10-17 have been amended. To the extent that the grounds for rejection are still applicable to the currently pending claims, they are respectfully traversed.

**Rejection Under 35 U.S.C. § 101**

Claims 10-17 are rejected under 35 U.S.C. 101 for being directed to non-statutory subject matter. The Office Action suggests amending Claims 10-17 to include

hardware structures, for example, a processor of a game device, executing step stored in a computer-readable instructions stored on a computer-readable medium.

It is noted that Claims 10-17 have been amended to include “the game machine comprising a processor and the input device” in the preamble and to use a processor for executing certain steps. Applicants also have added new Claims 18-19 directed to a computer program product. Applicants submit that such amendments overcome the rejection of 35 U.S.C. 101, and withdrawal of this rejection is respectfully requested.

**Rejection Under 35 U.S.C. § 103(a)**

In the Response to Argument Section (see Office Action, page 9), the Office Action alleges that successful receiving distance is really the maximum distance that the character can move from its present position and still intercept the volleyball in time and the successful receiving distance is not, for example, the character's arm's length which would allow the character to intercept the volleyball without changing position. In interpreting the step 109 of Togmai in Fig. 13, the Office Action asserts that step 109 of Togami determines that the “operation cannot be performed within the amendable range” based on the character's current location, but determines that the character is less than or equal to the maximum distance the character could move from its present position and still intercept the volley ball and if this is the case, Togami thus moves the character's position to that of the volleyball's determined landing location in step 110. The Office Action also asserts that what Togami is doing is really similar to what Saikawa is doing at step 320 of Fig. 5 of Saikawa. As to Saikawa, the Office Action particularly disagrees the Applicant's argument that in Saikawa, the lever must be first moved by the player to intercept the ball.

Based on the above, the Office Action asserts that the successful receiving distance of Togami is not the same as the strikable range recited in the present claims. If the character is in a ball strikable range (essentially within arm's length of the ball's anticipated landing position,) there would be no need for the player to move to a new position to intercept the call. The Office Action also asserts that Togami automatically moves a ball striking position of the player to be approximated to the predicted return position in which the judgment unit judges that the current position is out of the ball strikable region.

Applicants respectfully disagree with the Examiner. First, Applicants submit that amended Claims 1, 6, 10, 14, and 18-19 claims a gaming having a rally state and during the rally state, "the ball striking position of said ball striking player remains at the current position if the current position is within the ball strikable range, and is always moved to be approximated to said predicted return position when the current position is out of the ball strikable range without inactivating said ball striking player to allow said two or more players to continue participating the game." As claimed, the ball strikable range is determined by comparing a predicted return position of the ball returned by the CPU player that is calculated by a first calculation unit and the current position of said player.

That is, according to the claimed invention, during the rally state, the ball strikable range recited in the claims is substantially a successful ball receivable range because the ball striking ball movement unit always moves the ball striking position of the player to be approximated to the predicted return position when the current position is out of the strikable range.

On the contrary, in Togami, the cursors K1 and K2 are inactive when the distance between cursor K1 and K2 is equal or larger than the successful receiving range (i.e., the strikable range in the claimed invention) and the ball has fallen to the landing position. (See Togami, col. 13, lines 18-53.) That is, in Togami, the player character is not always moved to a striking position when the current position of the player character is out of the strikable range.

To be more specific, in Togami, if the distance between the first cursor K1 and the second cursor K2 is smaller than the predetermined successful receiving distance, the CPU 3 fully superposes the second cursor K2 and the first cursor K1. The position of the player character M is thus corrected into the position of the first cursor K1, i.e., the landing position of the ball B. (See Togami, col. 13, lines 22-28 and lines 33-36.) On the contrary, if the distance between the first cursor K1 and the second cursor K2 is equal or larger than the predetermined successful receiving distance, the CPU 2 decides whether the ball B has reached the landing position or not. If the ball B has not reached the landing position, then control goes back to step 108. (Togami, col. 13, lines 28-32 and 45-48.) As clearly described in col. 13, lines 18-21, at step 108, the CPU 2 assigns the first level L1 to control the player character M selected in step 106, which is a most appropriate player character M with respect to the first cursor K1, and detects the position of the second cursor K2. Then the process repeats the step 109.

However, at step 113, if the ball B has reached the landing position, then the CPU 112 displays an error of the game player on the monitor TV. (Togami, col. 13, lines 48-53.)

Clearly, Togami does not correct the position of the player M when the distance between the first cursor K1 and the second cursor K2 is equal or larger than the predetermined successful receiving distance (i.e, out of the strikable range of the claimed invention.) Unlike Togami, during the rally state, the present invention always moves the strikable position of the player to be approximated to the predicted return position whenever the judgment unit judges that the current position is out of the ball strikable region so that the player always has a chance to swing the input device. The system of the invention then determines whether the input device has been swung or not, and if so, calculates the initial vector speed.

Cheng, Tosaki, and Saikawa fail to cure the deficiency of Togami. Based on the above, Applicants respectfully submit that none of Togami, Tosaki, Saikawa, and Cheng, when taken singly or in combination, teaches or suggests at least the feature that “the ball striking position of said player remains at the current position if the current position is within the ball strikable range, and is always moved to be approximated to said predicted return position when the current position is out of the ball strikable range without inactivating said player to allow said player to continue participating the game,” as recited in amended Claims 1, 6, 10, and 14.

Further, Applicants respectfully submit that none of the cited references teaches or suggests “calculating the initial speed vector based on coordinates of said ball on the screen and a magnitude of a swing of said input device,” as recited in amended Claims 1, 6, 10, and 14.

In addition, the Office Action alleges, on page 9 of the Office Action, that there is no description in Saikawa as to the lever operation by the player, that is, in a case that

the player plays with the CPU, the CPU performs the processing in Fig. 13, no lever operation is performed. In response, Applicants respectfully submit that in col. 13, lines 18-21, Saikawa clearly describes that the control of the character is assigned to the first lever that is operated by the player. Fig. 13 of Saikawa actually shows that the control is performed by the CPU of the player's team but not of the CUP's team (see col. 12, lines 39-42.)

Accordingly, Claims 1, 6, 10, and 14 are allowable over the cited art. Claim 7-9, 11-13, and 15-17, which depends on Claim 1, 6, 10, or 14, are also allowable at least due to the above reasons with respect to Claims 1, 6, 10, and 14 and additional features recited therein.

#### New Claims 18-19

New Claims 18-19 recites features similar to those of amended Claims 10 and 14. Since Claims 10 and 14 are allowable over the cited art, new Claims 18-19 are likewise allowable over the cited art.

#### Conclusion

For all of the above reasons, it is respectfully submitted that claims 1 and 6-19 are in condition for allowance and a Notice of Allowability is earnestly solicited.

Should the Examiner determine that any further action is necessary to place this application into better form the Examiner is invited to contact the undersigned representative at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants hereby petition for an appropriate extension of time. The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment associated with this

communication to Deposit Account No. 01-2300 referencing client matter number  
**100341-00054.**

Respectfully submitted,  
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